HANDBOOK OF

CONNECTICUT

APPELLATE PROCEDURE

PREFACE

This is only a handbook. Although it contains much information on appellate procedure and tips for both the novice and the seasoned appellate practitioner, it is not intended to be a comprehensive treatise or a substitute for the official Connecticut Practice Book. The material in this handbook should be supplemented by your own careful study of the rules of appellate practice, as well as case law and statutes. The rules change frequently and therefore you should make sure you are consulting the most recent version of the rules. This handbook is based on the rules in effect as of January 1, 2003.

ACKNOWLEDGMENTS

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Joette Katz, Justice of the Supreme Court
William J. Lavery, Chief Judge of the Appellate Court

January, 2003

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INTRODUCTION

The Role of the Office of the Appellate Clerk

The office of the appellate clerk processes all paperwork that comes into the Supreme and Appellate Courts. The office is staffed by both lawyers and paralegals who monitor appeals for compliance with the rules, following appeals from initial filing to final disposition.

The office of the appellate clerk acts as the liaison between the public, the trial courts, the bar and pro se parties, on one hand, and the Supreme Court justices and the Appellate Court judges, their law clerks, and court staff, on the other. While every effort is made to serve as a resource for the bar and the public with respect to procedural matters, the office of the appellate clerk does not give legal advice.

Each appeal is assigned to a case manager who is responsible for that case from beginning to end. The chief clerk is usually the case manager for Supreme Court cases. Appellate Court cases are assigned to case managers based on the two terminal digits of the appeal number. Case managers review all papers that are filed in their assigned appeals. After an appeal is filed, it is reviewed by a case manager from both a procedural and a jurisdictional perspective. If any of the preliminary papers required by Practice Book (P.B.) § 63-4 are missing, nisi orders, which are orders that an appeal will be dismissed unless a particular document or paper required by the rules is filed, may be issued in civil cases; orders to show cause may be issued in other cases. Cases in which jurisdiction is questionable are referred to the staff attorney's office for further review and for possible scheduling on the courts' motion calendars. Case managers process motions, which includes acting on certain motions under guidelines established by the courts and issuing orders on all motions. Case managers also prepare the record and the docket of ready cases.

Frequent communication between the practitioner and the office's staff is encouraged. Questions should be directed to the case manager assigned to a particular appeal.

The office of the appellate clerk handles appeals originating at every trial court location throughout the state. Every effort is made to assist parties appearing before either court as promptly as possible.

READ THE RULES!
WHEN IN DOUBT, CALL THE OFFICE OF THE APPELLATE CLERK
(860) 757-2200
231 CAPITOL AVENUE
HARTFORD, CT 06106

SECTION 1

WHEN AND WHAT TO APPEAL

What is Appealable?

The first step in the appeal process is knowing what decisions can be appealed to either the Appellate Court or the Supreme Court. With one exception, only decisions of the Superior Court can be appealed. The exception is in workers' compensation cases where appeals bypass the Superior Court and go directly to the Appellate Court. See Connecticut General Statutes (C.G.S.) § 31-301b; P.B. § 76-1. Other administrative decisions, as well as Probate Court decisions, must first be appealed to the Superior Court.

In deciding whether a Superior Court decision is appealable, you should consider the following questions:

1. **Are you a party in the Superior Court?** If the answer is ''no,'' you generally cannot appeal. Instead, you should consider whether a writ of error would be appropriate. See P.B. § 72-1.

2. **Is the decision final?** If the answer is ''no,'' you generally cannot appeal or file a writ of error. In certain instances, interlocutory orders have been deemed final for purposes of appeal. It is beyond the scope of this booklet to explain when a decision is final. As a starting point, however, see the seminal case in this area, *State* v. *Curcio*, 191 Conn. 27 (1983). In addition, you may appeal pursuant to statute from certain nonfinal orders. These orders include:

    a. decisions concerning mechanic's liens, prejudgment remedies and lis pendens; C.G.S. §§ 49-35c, 52-278*l* and 52-325c;
    b. temporary injunctions involving labor disputes; C.G.S. § 31-118;
    c. orders or decisions certified by the Chief Justice as being of substantial public interest and in which delay may work a substantial injustice; C.G.S. § 52-265a;
    d. orders concerning court closure and sealing or limiting disclosure of court documents, affidavits or files; C.G.S. § 51-164x; and
    e. certain partial judgments; P.B. §§ 61-2 through 61-5.

3. **Are you aggrieved (legally harmed) by the decision?** If the answer is ''no,'' you generally cannot appeal.

4. **Is the subject matter of the decision appealable?** In general, the answer is ''yes.'' The following are exceptions:

    a. Small claims decisions are not appealable; C.G.S. § 51-197a; although denial of a timely motion by the defendant to transfer a small claims case to the regular docket can be reviewed by a writ of error under P.B. § 72-1;
    b. Criminal contempt decisions and decisions of the sentence review division are not appealable; file a writ of error instead. See P.B. § 72-1.

5. **Do you need permission to appeal?** In general, the answer is ''no.'' There are statutes and rules, however, that require parties to obtain permission to appeal. Rulings that require permission include:

    a. Superior Court decisions on appeals from local zoning and inland wetlands agencies, which require the filing and granting of a petition for certification by the Appellate Court; C.G.S. §§ 8-8, 8-9, 8-30a and 22a-43(d)**;** see P.B. § 81-1.
    b. Habeas corpus decisions concerning prisoners, which are appealable by either side only with the permission of the judge who tried the case; C.G.S. § 52-470**;** see P.B. § 80-1.
    c. Denials of petitions for new trials in criminal cases, which are appealable upon the granting of certification by the trial court; C.G.S. § 54-95.
    d. Rulings disposing of at least one cause of action while not disposing of either (1) an entire complaint, counterclaim or cross complaint or (2) all causes of action brought by or against a party, which require a written determination by the trial court that an appeal would be justified and the concurrence therein by the Chief Justice or Chief Judge; see P.B.§ 61-4.

In addition, General Statutes § 54-96 requires that the state obtain the permission of the trial court to appeal rulings or decisions in criminal cases. If permission or certification to appeal from the rulings listed in paragraphs (b) or (c) above is denied, or if the state is denied permission to appeal, an appeal may still be filed with the denial of permission raised as a threshold issue.

To What Court Do You Appeal?

In general, appeals go to the Appellate Court. Those that are filed directly in the Supreme Court are listed in C.G.S. § 51-199(b). If the appeal is filed in the wrong court, it will be automatically transferred to the correct court. P.B. § 65-4; see C.G.S. § 52-572.

How Long Do You Have to Appeal?

In general, you have 20 days from the date notice of the judgment or decision is issued by the judge or clerk (not when it is received by the lawyer or litigant). P.B. § 63-1(a). For writs of error, see C.G.S. §§ 52-272 and 52-273. In a criminal case, whether jury or nonjury, the imposition of sentence, not the verdict, constitutes the judgment. In a civil jury case, the verdict constitutes the judgment if no timely motion under P.B. §§ 16-35, 16-36 or 16-37 is filed; otherwise, the last ruling on any such motion or motions constitutes the judgment. In a civil nonjury case and in a civil jury case where one or more motions pursuant to P. B. §§ 16-35, 16-36 or 16-37 are filed, the judgment may be orally pronounced by the judge in open court, or it may be contained in a written memorandum of decision signed by the judge and sent to all parties of record by the clerk's office.

Where a party in a civil case is only one of several plaintiffs or defendants and a final judgment is rendered that takes that party out of the case, special rules apply concerning when to appeal. See P.B. § 61-5. Any aggrieved party may either file an appeal or file a notice of intent to appeal pursuant to P.B. § 61-5 to preserve the right to appeal. P.B. § 61-3. The notice of intent to appeal defers the taking of an appeal until a final judgment disposes of the case for all purposes and as to all parties, unless a timely objection to the deferring of the appeal is filed as provided by P.B. § 61-5.

The trial judge generally can grant an extension of time to appeal of up to 20 days. P.B. § 66-1(a). In addition, certain motions filed within the appeal period create a new appeal period that starts to run once the motions are ruled on by the trial court. See P.B. § 63-1(c). Check the statutes and the case law carefully before asking the trial judge to extend the time to appeal or before relying on the granting of one of the motions listed in P.B. § 63-1 to give rise to a new appeal period.

Some statutes provide for shorter periods within which to appeal or seek permission to appeal. These time periods include:

1. **72-hour period** to seek review of orders prohibiting attendance at court sessions and orders sealing or limiting access to documents on file with the court under C.G.S. § 51-164x (see P.B. § 77-1);

2. **5-day period** to appeal summary process judgments (Sundays and legal holidays excepted) under C.G.S. § 47a-35;

3. **7-day period** to appeal orders concerning mechanic's liens and prejudgment remedies under C.G.S. §§ 49-35c, 52-278*l* and 52-325c;

4. **10-day period** to seek certification to appeal habeas corpus decisions under C.G.S. § 52-470;

5. **14-day period** to seek permission from the Chief Justice to appeal, pursuant to C.G.S. § 52-265a (see P.B. § 83-1), from orders or decisions that involve matters of substantial public interest;

6. **14-day period** to appeal orders regarding temporary injunctions in labor disputes under C.G.S. § 31-118.

What Is the Status of the Judgment Pending Appeal?

The judgment in most cases is automatically stayed; that is, it cannot be executed on until the time to take an appeal has expired. If an appeal is filed, the stay ordinarily will continue until the case has been resolved. See P.B. §§ 61-11(a) and 61-13. The judgment, however, in certain types of cases is not automatically stayed. See P.B. §§ 61-11(b) and 61-13(a)(2).

If there is an automatic stay, a party can ask the trial judge to terminate the stay. P.B. §§ 61-11(c), 61-11(d) and 61-13(d). If there is no automatic

stay, a party can ask the trial judge to order a stay. P.B. §§ 61-12 and 61-13 (d). A party may seek review of a trial court order concerning a stay of execution under P.B. § 61-14.

SECTION 2

THE MECHANICS OF FILING AN APPEAL/CROSS APPEAL

Distinction between Appeals and Cross Appeals

An appeal may only be brought by a party who is legally harmed or ''aggrieved'' by the decision of the trial court. P.B. § 61-1. The party who files the appeal is called the appellant and all other parties who have not joined in the appeal are called appellees. In some instances, within 10 days of the filing of the appeal by the appellant, an appellee who is also legally harmed by the trial court's decision may also wish to challenge the decision by filing a ''Cross Appeal.'' The procedure for filing a cross appeal is the same as for the filing of an appeal, except where noted below. P.B. § 61-8.

Appeal Form

In most cases, an appeal is brought by filing a document entitled ''Appeal'' with the clerk of the trial court from which the appeal is being taken. There is a separate form for civil and criminal cases. Each is available on the Judicial Branch's web site (www.jud.state.ct.us) or at any clerk's office.

The appeal form should be filled out carefully. In particular, it is important to be sure that all the individual parties who are filing the appeal are listed on the appeal form. The appeal form must be accompanied by a certification that the appeal has been served on all counsel of record and pro se parties. The clerk of the trial court will endorse on the appeal form the date and time of filing and the receipt or waiver of the filing fees. The clerk will then return one copy of the endorsed form to you along with a copy of the docket sheet. You must promptly file the copy of the endorsed appeal form and the docket sheet in the office of the appellate clerk in Hartford, along with the other papers discussed below.

Fees

At the time the appeal is filed, you must pay the clerk of the trial court a fee, presently $250. The fee may be paid by a check payable to the clerk of the Superior Court. No fee is required for a cross appeal. An indigent party in a civil case may apply for a waiver of the appellate fees and an order that necessary expenses of bringing the appeal be paid by the state. The application must be filed within the deadline for taking the appeal, but if it is filed on time it postpones the appeal period until it is granted or denied. An indigent party in a criminal case may, within the time provided in the rules for taking an appeal, apply for a waiver of the appellate fees, costs and expenses and for the appointment of appellate counsel. An application is not

necessary, however, if the criminal party has already been determined to be indigent.

Other Papers

When you file the endorsed copy of the appeal form with the appellate clerk, pursuant to P.B. § 63-4, you must also file an original and one copy of the following papers (along with a certification that you have sent them to all counsel of record):

1. **A preliminary statement of the issues** that you intend to raise on appeal;
2. **A preliminary designation of the trial pleadings** that you wish to be included in the prepared record. This advisory list typically should include the complaint, answer, motions**,** court rulings and other pleadings that involve the issues you intend to raise on appeal (but not memoranda of law or evidence – see P.B. § 68-9);
3. Either a copy of the **transcript order form** (JD-ES-38) or a certificate stating that no transcript is necessary or listing the specific date(s) of transcripts already delivered;
4. **A docketing statement,** which includes a list of the parties' names and addresses, the names and addresses of all counsel of record, the case name and docket number of any cases that raise the same or similar issues, whether there were exhibits in the trial court, and, in criminal cases, whether the defendant is incarcerated;
5. In non-criminal cases, **a preargument conference statement**. This form is attached to the appeal form as page 2;
6. **A draft judgment file.** A draft judgment file is not required in criminal cases, habeas corpus appeals, divorce proceedings, prejudgment remedy appeals, and foreclosure actions. The form of this document is described in P.B. § 6-2. The Superior Court clerk can provide you with assistance in preparing this document;
7. **A constitutionality notice.** This document is required in any civil case in which you are challenging the constitutionality of a state statute. The document should state: (a) the statute being challenged, (b) the name and address of the party bringing the challenge, and (c) whether the trial court upheld the constitutionality of the statute.

The appellee has twenty days to respond to these papers pursuant to P.B. § 63-4.

After you have filed the appeal, you will receive a letter from the office of the appellate clerk providing you with the appellate docket number and assigning you a case manager to whom you can address questions.

SECTION 3

THE RECORD ON APPEAL

It is the appellant's responsibility (or in the case of a cross appeal, the cross appellant's responsibility) to ensure that the record is adequate to permit appellate review of the appellant's claims on appeal. P.B. § 61-10. For these purposes, the ''record'' includes all trial court decisions, pleadings, transcripts, documents and exhibits necessary to permit, and appropriate for, appellate review. This is distinct from the yellow-covered record referred to below in paragraph 6. The appellant **must** take this responsibility seriously, since the Supreme and Appellate Courts have frequently dismissed appeals or refused to consider a claim when the record was inadequate to permit appellate review. Perfecting the record for appeal involves a number of activities both before and after filing the appeal:

1. **Transcript.** On or before filing the appeal, the appellant must order (using Form JD-ES-38), and make satisfactory arrangements for payment of, a transcript of the parts of the proceedings not already transcribed that are necessary for proper presentation and review of the appeal. See P.B. §§ 63-8 and 63-4(3). The appellant is required to order both the traditional paper copy of the transcript as well as an electronic version. Upon receipt of the certificate of completion from the official reporter, counsel who ordered the transcript must file a certification that a copy of the certificate of completion has been sent to all counsel in accordance with P.B. § 62-7. P.B. § 63-8. Also, before or at the time of the filing of the appellant's brief, the appellant must file with the office of the appellate clerk one unmarked, nonreturnable copy of the paper version of the transcript, including the reporter's certification page. The reporter files an electronic version of the transcript with the office of the appellate clerk and with the ordering party. P.B. § 63-8A. Failure to file a transcript will usually preclude review of any claim dependent on the transcript. The transcript is not served on other parties, who must either review the transcript on file with the office of the appellate clerk or order their own copies from the court reporter. In a criminal case, the court reporter will provide the state with a copy of all transcripts ordered and received by the defendant-appellant if the appeal is being handled by a private attorney or the defendant is acting pro se. If the criminal appeal is being handled by a special public defender, the defendant, through counsel, must provide the state with a copy of all transcripts ordered and received.

2. **Motion for Rectification.** The appellant should correct any errors or omissions in the trial record by filing a motion for rectification. P.B. § 66-5; see P.B. § 66-2. For example, a motion for rectification should be used to correct an error in the trial transcript or to reflect the filing of a motion not included in the trial court record. Unless the filing period is extended for good cause shown, a motion for rectification must be filed within 35

days after: (a) delivery of the last portion of the transcripts; (b) if no transcripts were ordered, the filing of the appeal; or (c) if no memorandum of decision was filed before the appeal was filed, the filing of the memorandum of decision. If the court, *sua sponte*, sets a different deadline for filing the appellant's brief, such as an extension pending assignment for a preargument conference, a motion for rectification must be filed within 10 days before the deadline for filing the appellant's brief. Except for good cause shown, no motion for rectification can be filed after the appellant's brief is filed. The filing of a motion for rectification does **not** toll the time for filing the appellant's brief, so a motion for extension of time may be necessary. See P.B. § 66-1. The office of the appellate clerk will forward the motion for rectification to the trial judge who decided, or presided over, the subject matter of the rectification. The trial judge will file the decision on the motion with the office of the appellate clerk. The trial court may hold a hearing to receive evidence, approve a stipulation of counsel or hear arguments regarding a requested correction. Any party aggrieved by a trial court's ruling on a motion for rectification may file a motion for review under P.B. § 66-7, which is discussed below.

3. **Memorandum of Decision/Transcript of Oral Decision.** It is also the appellant's responsibility to ensure either (a) that the trial court files a written memorandum of decision or (b) if the trial court's decision was oral, that a transcript of the portion of the proceedings in which the court stated its oral decision is signed by the trial judge and filed in the trial court clerk's office. See P.B. § 64-1. Filing a transcript of a decision that is not signed by the trial judge is not sufficient to permit appellate review. If the trial judge fails to file a memorandum of decision or to sign a transcript of an oral decision, the appellant should file with the office of the appellate clerk under P.B. § 64-1(b) a notice that the decision has not been filed, specifying the trial judge involved and the date of the ruling in question. The appellate clerk will forward the notice to the trial judge. If the judge does not respond in a reasonable time, the appellant may also seek an order under P.B. § 60-2(1) directing the trial court to file its decision or sign the transcript.

4. **Motion for Articulation.** Whenever the trial court's decision fails to address an issue that will be raised on appeal, or is unclear or incomplete in setting forth the factual or legal basis of its decision, it is the appellant's responsibility to file a motion for articulation under P.B. § 66-5. This is an extremely important pleading since the court may refuse to consider an issue on appeal if the trial court's decision is unclear or incomplete and the appellant did not file a motion for articulation. The motion for articulation (which seeks further explanation regarding the basis for an existing decision) should not be confused with the notice, discussed above, that is filed pursuant to P.B. § 64-1(b) when the trial court has failed to file any memorandum of decision or to sign a transcript of the court's ruling. The

time periods for filing a motion for articulation are the same as those governing motions for rectification. Filing a motion for articulation does **not** toll the deadline for filing the appellant's brief, so that a motion for extension of time to file a brief may be necessary. See P.B. § 66-1. The office of the appellate clerk will forward the motion for articulation to the trial judge. Within 20 days of a judge's articulation, any party may move for further articulation. P.B. § 66-5.

5. **Motion for Review.** If any party is aggrieved by the action of the trial judge on a motion for articulation or rectification, that party should seek appellate review of that decision by filing with the office of the appellate clerk a motion for review under P.B. § 66-7 within 10 days of notice of the trial judge's action. Failure to file a motion for review may result in an appellate court refusing to address an issue, even if a motion for articulation or rectification was filed. If the motion was not granted or the trial court's ruling is incomplete in any way, a prudent party will file a motion for review, attaching any relevant pleadings, transcripts or other court papers. If the motion for review depends upon a transcript, either a transcript (and an electronic version of the transcript) or a copy of the transcript order, if the transcript has not yet been delivered, should be filed with the motion.

6. **Filing the Record.** The office of the appellate clerk prepares and certifies the yellow-covered record containing the docket entries and the key pleadings and rulings that are the focus of the appeal. See P.B. § 68-2. Soon after the parties' briefs are filed, the office of the appellate clerk will forward one copy of this record to the appellant. It is the appellant's responsibility to photocopy the record and to attach to each copy a yellow cover. The appellant must file with the office of the appellate clerk 25 copies of the record in Supreme Court cases and 15 copies in Appellate Court cases. In addition, the appellant must certify a copy of the record to all counsel of record and the trial judge. P.B. §§ 68-4 and 68-7.

7. **Filing Local Land Use Regulations.** In appeals certified by the Appellate Court pursuant to P.B. § 81-1 et seq., one complete copy of the local land use regulations in effect at the time of the hearing that gave rise to the agency action or ruling in dispute must be filed with the office of the appellate clerk when the appellant's brief is filed. The copy filed must be certified by the local zoning official as having been in effect at the time of the hearing. See P.B. § 81-6.

SECTION 4

PREARGUMENT CONFERENCES

Preargument conferences are held pursuant to P.B. § 63-10 and are designed to reduce issues and settle cases. The conferences, which are conducted by judge trial referees and senior judges, provide an opportunity for a jurist to look closely at the issues on appeal and help the attorneys

identify their strongest and weakest claims. In addition, preargument conferences provide the parties with an opportunity to discuss with the judge the possible settlement of the case or transfer of the appeal from the Appellate Court to the Supreme Court. The preargument conference judge may recommend that a case be transferred pursuant to P.B. § 65-1.

Preargument conference statements must be filed along with the appeal form in all non-criminal cases. See P.B. § 63-4(a)(5). The preargument statement must be accompanied by a copy of the trial court's written memorandum of decision, if there was one, or a transcript of the trial court's oral decision, if a transcript is available. In addition, the issues that the appellant plans to raise on appeal must be appended to the statement. After the filing of the preargument statement, the parties, in cases deemed appropriate by the Chief Justice, Chief Judge or designee, are informed by letter of the date and location of the conference.

Clients are required to attend preargument conferences unless excused. The rules require that they be present to consult with their attorneys at the courthouse where the conference is held. See P.B. § 63-10. In the event that a party against whom a claim is made is insured, the insurer must be available by phone, although the preargument conference judge may require the adjuster to be present at the conference site. The courts can use their sanctioning power to ensure that participants comply with the rules pertaining to preargument conferences.

A preargument conference will generally begin with a brief discussion of the case, its procedural history, and the trial court's ruling. Because the presiding judge may ask questions about the issues on appeal and the authorities supporting the positions of both sides, it is important for the attorneys to be thoroughly familiar with the case and particularly with what happened at trial. It is essential that the attorneys discuss the issues and the settlement potential of the case with their clients before the conference.

Experience has shown that settlement is more likely when the conference is held before the parties have invested time and money in the preparation of their appellate briefs. Consequently, if the conference cannot be held before the appellant's brief is due to be filed, the due date for that brief will be extended until 45 days after the first conference has taken place.

If a case does not settle and proceeds to argument, no discussion of the preargument conference may be presented to either the Supreme or Appellate Court.

SECTION 5

MOTION PRACTICE

All motions must comply with the requirements of P.B. §§ 66-2 and 66-3. Thus, motions must be:

- typewritten and fully double-spaced
- 12 point or larger size in arial or univers typeface
- no more than 3 lines to the vertical inch or 27 lines to the page

Certification of service is always required, including names, addresses, and telephone and fax numbers of all counsel or pro se parties served. P.B. § 62-7. Inclusion of juris numbers of counsel served is not required but is helpful to the office of the appellate clerk.

In accordance with P.B. § 66-2, every motion, including motions for extension of time, **must** contain in separate, appropriately captioned paragraphs:

- a brief history of the case
- specific facts relied upon
- legal grounds relied upon

There is a 10-page maximum for all motions or oppositions, including any memoranda in support of or in opposition to a motion. P.B. § 66-2(b). Requests to exceed the page limit set forth in P.B. § 66-2(b) may be made to the appellate clerk, although such requests are discouraged. Whenever a motion is filed in the office of the appellate clerk, it is initially examined for compliance with P.B. §§ 66-2 and 66-3. Non-complying motions are returned. P.B. § 62-7. The office of the appellate clerk retains a date-stamped copy of the returned document. ''Any papers correcting a non-complying filing shall be deemed to be timely filed if resubmitted to the appellate clerk without delay.'' P.B. § 62-7. The response time will not start to run until the correcting paper is filed.

Many motions relating to appellate practice can be filed. Some motions may lead to the disposition of an appeal. The appellee must file a motion to dismiss based on untimeliness or other defect within 10 days after the filing of the appeal or after the alleged defect arose. A motion to dismiss based on lack of jurisdiction, however, may be filed at any time. P.B. § 66-8. Examples of jurisdictional problems that can result in dismissal of an appeal include lack of standing, mootness, and lack of a final judgment.

The appellant may file a motion for sanctions pursuant to P.B. § 85-1 for lack of diligence in defending the appeal.

A motion for review pursuant to P.B. § 66-6 allows the Appellate or Supreme Court to review actions of the trial court during the pendency of the appeal involving questions that may arise in connection with the preparation of the appeal. A motion for review is appropriate where a party seeks to modify or

vacate any order of the trial court relating to the perfecting of the record for appeal or the procedure for prosecuting or defending the appeal. A motion for review is also appropriate to seek review of action of the appellate clerk or the trial court on a motion to extend time. P.B. § 66-1. In addition, a party may move for review of an adverse ruling on either a motion for stay of execution or a motion to terminate an automatic stay. See P.B. §§ 61-11, 61-12 and 66-6. A party has 10 days from the date of issuance of any order to file a motion for review.

Pursuant to P.B. § 60-2, any order made by the trial court in relation to the prosecution of an appeal may be modified or vacated. There are 10 subparts to this rule that give, by way of example, grounds to file a motion for a supervisory order. For instance, pursuant to P.B. § 60-2(4), a party may move an appellate court for a stay of ancillary proceedings in a case on appeal pursuant to that court's supervision and control of the proceedings on appeal.

Aside from motions to extend time, there are very few motions directed to briefing. A party may move to strike improper matters from the record, brief or appendix pursuant to P.B. § 60-2(3).

SECTION 6

MOTIONS FOR EXTENSION OF TIME

Motions for extension of time to file a brief or other paper, like all other motions, must be in compliance with P.B. §§ 66-2 and 66-3. Pursuant to P.B. § 66-1, motions for extension of time must also include:

- the reason for the requested extension
- certification to counsel, pro se parties, **and** the movant's client
- a statement indicating whether other parties consent or object
- the current status of the brief
- the estimated date of completion of the brief
- whether the client is incarcerated (criminal cases only)
- a demonstration of **good cause**

Only an original of the motion is required to be filed. No copies are necessary.

The rules allow only 5 days to file an objection to a motion for extension of time.

The Good Cause Requirement

Good cause must be shown for a motion for extension to be granted. Generally speaking, the case managers in the office of the appellate clerk act on motions for extension under the general guidelines established by the courts. If the reason for the requested extension is that counsel is working on other appeals, be specific, listing the dates when briefs are due in other

cases. Whether your reason relates to the inherent nature of the appeal, such as lengthy transcript, complex issues or pending settlement negotiations, or relates to personal matters, such as family or personal illness, confirmed vacation plans or caseload conflicts, be forthright. If you are not sure if the reasons are adequate, call the office of the appellate clerk. Other pending motions, unrelated to the filing of a brief, do not toll the time to file the brief, although such other pending motions may furnish a reason for granting an extension of time to file the brief.

When to File

A motion for extension of time must be filed no later than 10 days **before** the brief or paper is due, unless the reason for the request for an extension arose during that 10 day period. The case managers will act on the motion as long as it is filed by the due date of the brief or other paper. If the motion for extension is filed **after** the due date, the clerk is required to deny the motion. P.B. § 66-1(4). If the due date has passed or a motion for extension has been denied, a motion for permission to file late may be filed. See P.B. §§ 60-1, 60-2(6) and 60-3. Extensions cannot be granted over the telephone, but it is recommended that the case manager be called in this situation as soon as possible in order to avoid having the case placed on the court's P.B. § 85-1 delinquency calendar or having a nisi order issued.

How Long an Extension to Expect

Generally, the office of the appellate clerk is authorized to grant extensions averaging 21 to 30 days. Special circumstances requiring more time are addressed on a case-by-case basis. Sometimes, though, the granting of an extension will be contingent upon action taken on another motion. For example, an extension might be granted to 21 days after issuance of notice of a decision on a pending motion to dismiss.

If there is an outstanding nisi order or a final extension order for the filing of a brief and the applicable due date has passed, a motion to suspend the rules is required. P.B. §§ 60-1, 60-2 and 60-3. Without such a motion, the office of the appellate clerk cannot accept a late brief or other paper in a case where there is either a nisi order or a final extension order.

Review of Order

Review of a case manager's order on a motion for extension of time may be obtained by motion for review. See P.B. §§ 66-1(c)(5) and 66-6.

Extensions of Time in Which to File an Appeal

Pursuant to P.B. § 66-1, a motion for extension of time to file an appeal must be filed at the trial court where the case was heard. The trial judge may not extend the time by more than 20 additional days beyond the appropriate appeal period. See P.B. §§ 66-1(a) and 63-1(a). If the trial judge declines to

grant the motion for extension of time to appeal, a motion for permission to file a late appeal may be filed in the Supreme or Appellate Court.

SECTION 7

BRIEFS AND APPENDICES

The timing, format, and content of briefs and appendices are governed by Chapter 67 of the Practice Book. Briefs that do not substantially comply with the rules may be rejected by the office of the appellate clerk. P.B. § 62-7. Moreover, the court may refuse to review issues that are not properly briefed.

Timing

1. **The Appellant's Brief.** The brief of the appellant must be filed within 45 days of the delivery date of any transcript ordered by the appellant. P.B. §§ 67-3 and 63-8(c). The ''delivery date'' of the transcript is the date on which the final portion of the transcript ordered by the appellant is sent to the appellant by the court reporter. See P.B. § 63-8(c). If the appellant has not ordered any transcript or, if the transcript on which the appellant intends to rely was obtained prior to the filing of the appeal, the appellant's brief must be filed within 45 days of the date on which the appeal form was filed in the trial court. P.B. § 67-3.

2. **The Appellee's Brief.** The brief of the appellee must be filed within 30 days after the filing of the appellant's brief. P.B. § 67-3. If the appellee has ordered any transcript in addition to that ordered by the appellant; see P.B. § 63-4(a)(4); the appellee's brief must be filed within 30 days after the delivery date of the transcript ordered by the appellee. P.B. § 67-3.

3. **The Reply Brief.** The reply brief must be filed within 20 days after the filing of the brief of the appellee. It must respond only to the appellee's argument and may not raise new issues.

4. **Cross Appeals.** Where a cross appeal has been filed, the brief of the appellant is filed within the time provided by rule. The brief of the appellee is combined with its brief as cross appellant and is filed within the time provided for the filing of the appellee's brief. The reply brief, if any, of the appellant is combined with its brief as cross appellee and must be filed within 30 days after the filing of the brief of the appellee/cross appellant. The reply brief, if any, of the cross appellant must be filed within 20 days after the filing of the brief of the cross appellee. P.B. § 67-3.

Format

The Practice Book contains precise requirements concerning margins, spacing, fonts, page numbers, binding and covers. P.B. § 67-2. Strict compliance with these requirements is essential.

Supreme Court cases require an original and 25 copies of the brief to be filed. Appellate Court cases require an original and 15 copies. Briefs must be copied on one side of the page. The appendix may be copied on both sides of the page, but an appendix of more than 50 pages **must** be copied on both sides of the page. (See P.B. § 67-8 for specific requirements as to appendices.)

The page limitations for briefs may be found in P.B. § 67-3. For purposes of the page limitations, you must count everything other than the: (1) appendices; (2) statement of issues; (3) table of contents; (4) table of authorities; (5) statement of interest in an amicus curiae brief; and (6) last page of the brief, but **only** if it contains nothing more than the signature of counsel. Either the Chief Justice or the Chief Judge may grant permission to exceed the page limitations set forth above. Requests to exceed the page limitations, which should be made sparingly, should be made by letter and should include both a compelling reason and the number of pages sought. It is helpful if you include your current statement of issues. If you are briefing a claim based on the state constitution as an independent ground for relief, you may obtain an additional 5 pages (2 pages for a reply brief) simply by writing a letter to the clerk. Note that these additional pages are to be used **only** for the state constitutional argument.

Content

The brief should be as concise and as readable as possible. Use plain English in your brief. The appellant and the appellee should be referred to as either the ''plaintiff'' or the ''defendant,'' as appropriate, or by name. P.B. § 67-1. The appellant must describe what happened in the trial court and why the judgment should be reversed. The appellee should try to persuade the reviewing court either that the trial court did nothing wrong or, alternatively, that any errors that might have occurred do not merit reversing the judgment.

—The Appellant's Brief

The appellant's brief must contain a statement of the issues involved in the appeal, a table of authorities, a statement of the nature of the proceedings and the facts of the case, and an argument section. P.B. § 67-4(a) through (d). The text of pertinent portions of any constitutional provisions, statutes, ordinances or regulations on which the appellant relies must be included either in the brief or in an appendix. P.B. § 67-4(e). Also include any rules of court that are at issue. The appellant's brief should be organized in the following order:

1. **Table of Contents.** The table of contents should outline the various sections of the brief (including the major headings from the argument section), along with a page number for each section or heading.

2. **Statement of Issues.** The statement of issues must be included in the appellant's brief. P.B. § 67-3(a). The issues stated must be concise and

must be set forth in separately numbered paragraphs, without detail or discussion. The statement should include references to the pages of the brief where each issue is discussed. P.B. § 67-3(a). The statement of issues should not exceed one page and should be on a page by itself. P.B. § 67-1. The statement of issues will be deemed to replace and supersede the appellant's preliminary statement of issues. P.B. § 67-3(a).

3. **Table of Authorities.** The table of authorities should include all authorities cited in the brief, as well as the page numbers of the brief where those citations appear. P.B. § 67-4(b). The rules provide for different citation protocols for judicial decisions, depending on whether the citation to the decision is located in the brief or in the table of authorities. P.B. § 67-11.

4. **Statement Regarding Land Use Regulations.** In zoning appeals filed pursuant to P.B. § 81-4, you must include a statement of the version of the land use regulations filed with the office of the appellate clerk.

5. **Statement of Proceedings and Facts.** The rules provide that the statement of proceedings and statement of facts should have some ''bearing on the issues raised.'' P.B. § 67-4(c). It is not necessary to set forth every procedural event or every piece of evidence presented at trial, if the issue on appeal is whether the trial court should have stricken the complaint because it failed to state a cause of action. On the other hand, if the issue on appeal is whether the verdict was contrary to the evidence, then the statement of facts would necessarily require a detailed description of all of the evidence presented at trial. The statement of facts should be in narrative form, should not be ''unnecessarily detailed or voluminous,'' and should include citations to the transcript page(s) or documents upon which you rely. P.B. § 67-4(c).

6. **Argument.** The argument section should be divided into appropriate sections (with headings), corresponding to the issues and sub-issues presented in the appeal. P.B. § 67-4(d).

At or near the beginning of the argument for each issue, you must include a separate, brief statement of the standard of review that you believe the reviewing court should apply. P.B. § 67-4(d). The statement of the standard of review is an opportunity to tell the judges hearing the appeal how you believe they should review the actions of the trial court. For example, if the trial court decided an issue as a matter of law (i.e., construed a statute or granted summary judgment), such decisions are generally reviewed anew on appeal (''de novo'' or ''plenary'' standard of review). On the other hand, issues related to the management of a trial (i.e., scheduling, evidentiary rulings, etc.) are generally reviewed on appeal only to the extent necessary to determine whether the trial court abused the wide discretion allocated to it in such matters (''abuse of discretion'' standard of review). Factual findings made by the trial court are generally reviewed to determine whether there is evidence in the record to support those findings (''clearly erroneous'' standard

of review). Be aware that these three examples do not purport to cover the field of ''standards of review.'' It is very important that you understand the nature of the review to which your client is entitled on appeal and that you inform the court what you believe that standard should be.

The appellant must also demonstrate to the reviewing court that the issues presented on appeal were properly raised in the trial court. Depending on the issue raised on the appeal, the appellant is required to include certain pertinent information in either the brief or the appendix. P.B. § 67-4(d)(1)–(4). If the appellant does not comply with these requirements, the court may refuse to review the issues raised on appeal.

7. **Conclusion.** A short conclusion should be included in the appellant's brief, identifying exactly what action you believe should be taken in the event the court resolves the appeal in favor of your client, e.g., a new trial or a directed judgment.

8. **Signature and Certificate of Service.** Include both your telephone and fax numbers. P.B. § 62-6. In your certificate of service, include telephone and fax numbers for all counsel of record and certify that a copy of the brief was sent to any trial judge who rendered a decision that is the subject matter of the appeal. P.B. § 67-2. The certificate need only be attached to the original brief filed with the office of the appellate clerk.

9. **Certificate of Compliance.** A signed certificate of compliance with all the provisions of P.B. § 67-2 must be attached to the signed original brief.

—The Appellee's Brief

In general, the appellee's brief mirrors that of the appellant as to content and organization. The appellee's brief must respond to the points made and the issues raised in the appellant's brief. The rules allow the appellee to dispense, as appropriate, with certain items that are required in the appellant's brief. For example, the appellee's counter statement of issues need only address those issues raised by the appellant with which the appellee disagrees, along with any issues properly raised by the appellee under P.B. § 63-4 (i.e., alternate grounds on which the judgment may be affirmed or adverse rulings that should be considered if a new trial is ordered). P.B. § 67-5(a).

Similarly, the appellee is not required to submit a statement of the nature of proceedings and is required to include a counter statement only as to those facts as to which the appellee disagrees. P.B. § 67-5(b). The counter statement of facts must be supported with references to the transcript or relevant documents. Any facts on which the appellee intends to rely must be set forth in either the brief or appendix of the appellant or in the brief or appendix of the appellee. P.B. § 67-5(c). This is especially important to remember where, as appellee, you intend to present to the court any of the issues listed in P.B. § 63-4 (for example, alternate grounds for affirmance).

To the extent that you disagree with the appellant's interpretation of rulings made by the trial court, voice your disagreement in the argument section of the appellee's brief. P.B. § 67-5(d). The appellee's brief must also include a brief statement of the standard of review that the appellee believes should be applied by the court. P.B. § 67-5(d). If you agree with the appellant's statement of the standard of review, you may indicate so. The appellee's argument section should also address any claims raised under P.B. § 63-4.

When the appellee is also the cross appellant, the issues on the cross appeal should be briefed by the cross appellant in accordance with the rules governing the appellant's brief. P.B. § 67-5 (g).

—The Reply Brief

Although the filing of a reply brief by the appellant is not required by the rules, if the appellee has raised any issues pursuant to P.B. § 63-4(a)(1), a reply brief is the only way for the appellant to respond in writing to such issues. Do not raise new issues for the first time in the reply brief. Issues raised in this manner may be ignored by the court.

— Appendices

Both the appellant and the appellee are entitled to file an appendix with their briefs, either bound with the brief or bound separately. See P.B. § 67-1 et seq. Even though an appendix is not strictly required in most instances, it is best to file an appendix along with the brief. It is considerably easier for appellate judges to consult a party's appendix (particularly at oral argument) than it is for them to obtain access to the actual case file. Include in the appendix any items from the case file that are important for the appellate judges to consider in connection with the appeal, including the key portions of the trial transcript, important exhibits or documents or significant pleadings. The appendix must include copies of significant statutes relied upon and any cases cited in the brief that are not officially reported. The only item that is absolutely required to be included in an appendix is the text of any unpublished opinion. P.B. §§ 67-8 and 67-9. When error is claimed in connection with any jury instruction or evidentiary ruling, the appellant must include in the appendix or in the brief itself a verbatim statement of (in the case of a challenge relating to jury instructions) the relevant portions of the jury charge and all requests to charge and exceptions to the charge, or (in the case of an evidentiary ruling) the evidence or testimony offered, the objection made and the grounds on which the evidence or testimony was claimed to be admissible or inadmissible. P.B. § 67-4(d).

Practice Book § 67-8 sets forth the requirements for an appendix, which include a table of contents and the listing of names of witnesses whose testimony is cited, and the format for including excerpted testimony. In certain instances, specific items must be included in either the brief or the appendix. See P.B. §§ 67-4(d), 67-4(e), 67-5(d), 67-5(f) and 67-5(g). If these items are

not included, the court may decide not to review the issue to which those items relate.

BRIEFS IN BRIEF (P.B. § 67-1 et seq.)

General Requirements

FONT (text and footnotes)	arial or univers, at least 12 point
MARGINS	1'' top and bottom, 1.25'' left,.5'' right
PAGE NUMBERS	center bottom
BINDING	3 staples on left or otherwise firmly bound
HOW MANY TO FILE	AC: original plus 15 copies SC: original plus 25 copies
SPACING	• fully double-spaced text • single-spaced footnotes and block quotes
FRONT COVER	arial or univers, at least 12 point: • court (Supreme Court or Appellate Court) • docket number (SC ____ or AC ____) • case name (as found in trial court's judgment file) • whose brief (e.g., brief of the defendant-appellant) • name, address, telephone number and fax number of counsel of record (including those of counsel who will argue the appeal)
BACK COVER	optional, but white, if used
APPENDIX	if over 50 pages, double-sided pages; if over 100 pages, separately bound and double-sided pages; if separately bound, same color cover as brief it is filed with
CERTIFICATIONS	• certify service to trial judge, counsel and pro se parties • certify compliance with rules
TRANSCRIPT	due at time of filing brief: 1 unmarked, nonreturnable copy, with form (JD-CL-62) indicating filing party, number of volumes and dates of hearings transcribed
AMENDED DESIGNATION OF PLEADINGS FOR PREPARED RECORD	original plus 1 copy due at time of filing of appellant's brief
ZONING REGULATIONS	1 complete copy of local land use regulations certified by local zoning official

Specific Requirements for Parties' Briefs

BRIEF	NO. OF PAGES	COVER COLOR	WHEN DUE
APPELLANT	35	blue	45 days after transcript delivered or, if no transcript, 45 days after appeal filed in trial court
APPELLEE	35	pink	30 days after appellant's brief filed
APPELLEE/CROSS APPELLANT	50	pink	30 days after appellant's brief filed
REPLY	15	white	20 days after appellee's brief filed
CROSS APPELLEE WITH APPELLANT REPLY	40	white	30 days after appellee's brief filed
CROSS APPELLEE WITHOUT APPEL-LANT REPLY	35	pink	30 days after appellee/cross appellant's brief filed
CROSS APPELLANT REPLY	15	white	20 days after cross appel-lee's brief filed
AMICUS	Set by court	green	set by court

SECTION 8

ASSIGNMENT OF CASES

Cases are listed on the printed Docket when all briefs and the prepared record have been filed. See P.B. § 69-1. The cases listed on the Docket are considered ready for assignment during the upcoming court term. The Docket, which also contains the anticipated assignment dates, is mailed by the office of the appellate clerk to all counsel of record and pro se parties, all of whom are required to inform the office of the appellate clerk, by letter or fax, of any scheduling conflicts, requests to argue cases together, or requests to waive argument. See P.B. § 69-3. The date by which the office of the appellate clerk must receive such letters or faxes is shown on the Docket.

The Assignment for Days, which is a printed calendar that shows the dates on which cases are assigned for argument during a particular term of the court, is mailed to counsel and pro se parties in assigned cases. P.B. § 69-3. The office of the appellate clerk must be notified promptly of any case that has settled or is being withdrawn so that a standby case can be called up. P.B. § 69-2. Standby cases, which are also listed on the Assignment for Days, may be called for argument on short notice. If not called during the month they are assigned on standby status, they are usually assigned for argument the following term.

Pursuant to P.B. §§ 69-2 and 69-3, cases are ordinarily assigned at the direction of the Chief Justice, Chief Judge, or a designee, by ready date and by case type. The ready date is the last date of either the filing of the prepared record or the reply brief or the expiration of the due date to file the reply brief. Assignment of cases is ordinarily made in order of readiness, with the oldest ready cases being assigned first.

SECTION 9

ORAL ARGUMENT

In the Supreme Court, both the appellant and the appellee are allowed 30 minutes of argument time respectively. P.B. § 70-4. The practice of the Appellate Court is to allow both the appellant and the appellee 20 minutes of argument time respectively. The appellant may reserve rebuttal time out of the allotted time. The appellant opens and generally closes the argument. P.B. § 70-3.

Only one person may argue for any one party unless special permission is obtained from the presiding jurist prior to the date of argument. P.B. § 70-4. Multiple counsel representing different parties on the same side of a case may apportion the argument time allotted to that side between themselves without special permission of the court. A party must have filed a brief or joined in the brief of another party in order to argue at all. A party that has been admitted as amicus curiae may not argue unless specifically granted permission to do so. P.B. § 67-7. Such permission is rarely granted.

The Appellate Court sometimes determines that certain cases are appropriate for disposition without oral argument. P.B. § 70-1. If a case is chosen for such disposition, counsel and pro se parties are notified of this fact by letter. If either party has an objection to waiving oral argument, that party must respond to the letter within 7 days to request a hearing on whether the case is indeed appropriate for disposition without oral argument. Upon receipt of such request, the case will be placed on the court motion calendar where both sides may be heard briefly on the issue of whether oral argument should be allowed.

Counsel may, at any time, request the court's permission to submit a case for consideration on the record and the briefs only.

Suggestions for Successful Oral Argument

Many books and articles have been written about the techniques for a successful oral argument and all of that good advice cannot be repeated here. The following is a short list of suggestions to keep in mind as you plan your oral argument.

1. **Oral argument serves a very different function from the written brief**. The brief is a detailed and formal explanation of your client's position that

the judges study at length before and after oral argument. Oral argument, by contrast, is a short and often intense opportunity that is provided so that you can answer the judges' questions about the case and your client's position. Oral argument, therefore, should not be a speech or a spoken version of the brief. Instead, use the oral argument to focus the court on the key strengths of your case and weaknesses of your opponent's position and to answer the judges' questions.

2. **Effective oral argument requires detailed preparation and a mastery of the facts and law relevant to the case and position.** The judges assigned to hear the case will have read the parties' briefs before argument and will be familiar with the facts of the case, the proceedings below and the key cases cited. So should you. The judges expect you to know what occurred below even if you were not the lawyer who tried the case. Therefore, answers such as, ''I was not the lawyer who tried the case,'' are not favored. You are the only one present representing your client and, therefore, the judges expect you to be able to answer their questions.

3. **Do not read your argument from a prepared text or notebook**. Bring notes with you to the lectern but resist the temptation to read from them. Instead, maintain eye contact with the judges and engage them in a discussion of your client's position and the court's questions. A meaningful discussion of that kind will be possible only if you are thoroughly familiar with the facts of your case and the decisions cited in the parties' briefs. If you intend to rely at argument on a decision that was not cited in the briefs, advise the court and your opponent of the case in advance of argument pursuant to P.B. § 67-10.

4. **Do not begin your oral argument with a recitation of the facts or proceedings below.** Assume that the judges will be familiar with the facts and procedural history of your case. You will probably have only a brief opportunity to speak at the outset of the argument before the judges begin to ask questions. Instead of wasting that opportunity on matters that the judges already know about or that are not relevant to resolution of your case, use that brief time to get immediately to the crux of your case.

5. **Expect and welcome questions from the court.** The purpose of oral argument is to answer the judges' questions. Experienced advocates understand that questions are not interruptions but are opportunities to clarify positions, clear up confusion and persuade the judges that your client should prevail. The best way to give a good answer is to anticipate the questions in advance. Careful preparation, therefore, requires you to consider the questions that the judges may have about your case and to develop concise answers to anticipated questions. Many lawyers consider it useful to practice answers to anticipated questions before the argument.

6. **Listen carefully to the questions asked and think before answering a question**. Make sure you understand what the judge is asking **before**

responding. Long answers to questions that were never asked are not helpful. Respond directly and immediately to the question with a ''Yes,'' ''No,'' or ''I do not know,'' and then explain your answer. As a practical matter, you will probably be limited to a one or two sentence explanation. If you quote from a portion of the record, tell the judges where they can find it.

7. **Never say, ''I'll get to that later.''** The judge who asked the question wants to explore that issue now, not when you get around to the page of your outline where you listed that issue.

8. **Be courteous and respectful to the court and opposing counsel.** Do not argue with a judge or pose questions to the court. It is their job to ask the questions, not yours, although you should clarify questions if needed. Judges also will not appreciate it if you denigrate, or are discourteous to, your opponent.

9. **Do not continue your argument or use your rebuttal time if you no longer have anything meaningful to say.** If the judges have no further questions, consider whether it is useful to continue your argument or to waive the balance of your allotted time.

10. **Above all, be honest and candid with the court.** If you do not know the answer to a question, say so. Also, if there is a decision or fact that is harmful, say so as well, but explain why you believe the court should not follow it. You do not help your client or yourself by evasive or untruthful answers. Not only do you have an ethical obligation of candor to the court, but the judges will surely discover your lack of candor.

SECTION 10

POST-DECISION MOTIONS AND PETITIONS

After the court issues an opinion in a case, the reporter of judicial decisions sends a copy of the opinion and the original rescript to the clerk of the trial court. Notice of the decision will be deemed to have been given, for all purposes, on the official release date that appears in the court's opinion, and not on the date on which the court's opinion is posted on the Judicial Branch's web site. See P.B. § 71-4. There are a number of motions and petitions that may be filed after a decision is issued by either the Supreme Court or Appellate Court.

Motion for Reconsideration/Motion for Reconsideration En Banc

A motion for reconsideration by either the panel that decided the case or by the Supreme or Appellate Court en banc (or both) must be filed within 10 days from the official release date of the decision being challenged. The motion must be accompanied by a receipt showing that the fee for filing the motion has been paid to any trial court clerk's office in the state or that the

fee has been waived. C.G.S. § 52-259c. The motion will not be considered properly filed unless the fee has been paid. See P.B. § 71-5. The motion must comply with the general motion requirements listed in P.B. §§ 66-2 and 66-3 and is limited to 10 pages. Motions for reconsideration should briefly state with specificity the grounds for reconsideration. They are rarely granted.

Petition for Certification

A party who is aggrieved by a final determination of an appeal by the Appellate Court may seek review of that decision in the Supreme Court by filing a petition for certification in the Supreme Court. P.B. § 84-1. Such review is entirely discretionary. Petitions for certification must be filed within 20 days of the date on which the Appellate Court decision is officially released, or 20 days after the order on any timely filed motion for reconsideration filed with the Appellate Court. P.B. § 84-4(a). Cross petitions for certification may be filed by any other aggrieved party within 10 days of the filing of the original petition.

Except for workers' compensation cases, the original and one copy of the petition for certification must be filed with the clerk of any trial court in the state, together with the fee. The clerk will then endorse the petition with the date and time of filing and return it to the petitioner, who must file it with the office of the appellate clerk along with 10 copies. C.G.S. § 52-259; P.B. § 84-4(a). In workers' compensation cases, no fee is required and the petitioner must file the original and 10 copies of the petition for certification directly with the office of the appellate clerk, not with the trial court. P.B. § 84-4(a). Although the 10 page limit (exclusive of the appendix) applies, petitions for certification do not require compliance with the general motion requirements of P.B. § 66-2.

The petition must include:

- a statement of the question presented
- a statement of the basis for the extraordinary relief of certification
- a summary of the case, an argument and an appendix containing specified items; P.B. § 84-5;
- a certificate indicating compliance with all the provisions of P.B. §§ 84-1 and 84-6

The appendix may also include other items that the petitioner believes would be useful to the Supreme Court. Within 10 days of the filing of a petition for certification, any party may file a statement in opposition, also not to exceed 10 pages. P.B. § 84-6. There is no provision for any reply. If the Supreme Court grants the petition for certification, the office of the appellate clerk will enter the case upon the Supreme Court's docket. The successful petitioner (now called the appellant) must pay a $250 fee within 20 days of the notice of certification unless no fee is required or the fee has been waived. P.B. § 84-9. The appellant must certify to all other counsel and to the clerk of the trial court from which the cause arose that the fees have been paid

or no fees were required. The appellant must file the docketing statement required by P.B. § 63-4(a)(4) and, unless the time is otherwise extended, must file the appellant's brief within 45 days of notice of certification. Briefing thereafter is in accordance with the requirements of P.B. § 67-3.

Petition for Certiorari/Stays

Parties aggrieved by a final decision of the Supreme Court or by a final decision of the Appellate Court, where certification by the Supreme Court has been denied, may seek review of an issue of federal law by filing a petition for certiorari in the U.S. Supreme Court. 28 U.S.C. § 1257. Aggrieved parties may also seek review in the U.S. Supreme Court of an issue of federal law where certification has been denied by the Appellate Court. Please consult the U.S. Supreme Court's rules for the procedures governing petitions for certiorari. If a party wishes to obtain a stay of execution pending decision by the U.S. Supreme Court, that party may seek such a stay by filing a motion for a stay within 20 days of the appellate judgment. P.B. § 71-7. The filing of the motion will operate as a stay pending a decision on the motion for stay. If the case has gone to judgment in the state Supreme Court, the motion for stay should be filed with that court. If the state Supreme Court has denied a petition for certification from the Appellate Court, the motion for stay should be filed with the Appellate Court.

Bill of Costs

A bill of costs must be filed with the office of the appellate clerk within 30 days after the official release of the appellate decision or denial of a motion for reconsideration or petition for certification, whichever is last. P.B. § 71-2. Any party may seek review of the clerk's taxation of costs by filing a motion to reconsider costs. P.B. § 71-3.

RESOURCES ON CONNECTICUT APPELLATE PROCEDURE

Official Connecticut Practice Book: The Commission on Official Legal Publications[1]

Connecticut Rules of Appellate Procedure, Horton & Cormier: West Publishing[2]

Connecticut Appellate Practice and Procedure, Tait & Prescott: Connecticut Law Tribune[3]

[1] The Official Practice Book, which is republished annually, may also be accessed at www.jud.state.ct.us, the website of the Connecticut Judicial Branch. It should be noted that when new rules of practice are adopted or existing rules are amended, an Official Commentary, which often explains the reason for the rule change, appears after the rule in the Official Practice Book. The Official Commentary appears only in the edition of the Official Practice Book corresponding to the year in which the new rule or amendment first was published.

[2] This unofficial, annotated volume is updated and reissued annually, and it includes prior years' Official Commentaries.

[3] This volume is updated periodically with a cumulative supplement.